

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JUNE THEPSOMBANDITH,

Petitioner,

v.

V.M. ALMAGER, Warden,

Respondent.

Civil No. 07- 2248 BEN (RBB)

**ORDER DENYING IN FORMA
PAUPERIS APPLICATION AND
DISMISSING CASE WITHOUT
PREJUDICE**

On November 27, 2007, Petitioner, a state prisoner proceeding pro se, filed a Petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. [Doc. No. 1.] On December 3, 2007, the Court dismissed Petitioner's case for failure to pay the \$5.00 filing fee or moved to proceed in forma pauperis. [Doc. No. 3.]

Petitioner filed a request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a) on December 3, 2007. [Doc. No. 4.] The Court dismissed the case without prejudice and with leave to amend because Petitioner had failed to provide the Court with sufficient information, in the form of a certified trust account statement from the institution in which he is incarcerated, for the Court to determine Petitioner's financial status. [Doc. No. 5.]

On January 3, 2008, Petitioner filed a second motion to proceed in forma pauperis. [Doc. No. 6.] On February 11, 2008, this Court dismissed the case without prejudice and with leave to amend because Petitioner again did not include sufficient information to determine Petitioner's financial status, i.e. a certified trust account statement from the institution in which

1 Petitioner is incarcerated. [Doc. No. 7.] Petitioner was given until April 14, 2008, to provide
2 the Court with the information and was notified that the case would be dismissed without further
3 leave to amend.

4 On February 22, 2008, Petitioner filed a third request to proceed in forma pauperis which
5 reflects a \$8.47 balance in his prison trust account. The filing fee associated with this type of
6 action is \$5.00. See 28 U.S.C. § 1914(a).

7 It appears Petitioner can pay the requisite filing fee. Accordingly, the Court **DENIES** the
8 request to proceed in forma pauperis, and **DISMISSES** the case without prejudice. Petitioner
9 may submit a copy of this order along with the requisite fee no later than **June 30, 2008.**

10 **PETITIONER IS ADVISED THAT IF HE DOES NOT PROVIDE THE COURT WITH**
11 **THE \$5.00 FILING FEE BY JUNE 30, 2008, THE CASE WILL BE DISMISSED**
12 **WITHOUT FURTHER LEAVE TO AMEND AND HE WILL BE REQUIRED TO**
13 **START OVER BY FILING A NEW PETITION WHICH WILL BE GIVEN A NEW**
14 **CIVIL CASE NUMBER**

15
16 **IT IS SO ORDERED.**

17
18 DATED: May 20, 2008

19
20 
21 Hon. Roger T. Benitez
22 United States District Judge
23
24
25
26
27
28